

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
against:

Case No: 23-2003-142527

ELSWORTH PEARL WILLIAMS, JR., M.D.

Physician's and Surgeon's
Certificate #A-24406

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 14, 2005

IT IS SO ORDERED November 7, 2005

MEDICAL BOARD OF CALIFORNIA



Ronald L. Moy, M.D.

Panel B, Chair

Division of Medical Quality

BILL LOCKYER, Attorney General
of the State of California
IVAN O. CAMPBELL, State Bar No. 216049
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California Department of Justice
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Attorneys for Complainant

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ELSWORTH P. WILLIAMS, JR., MD
519 Alvarado St.
Redlands, CA 92373

Physician & Surgeon Certificate No. A 24406

Respondent.

Case No. 23-2003-142527

OAH No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. David T. Thornton (Complainant) is the Executive Director of the Medical Board of California. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Ivan O. Campbell, Deputy Attorney General.

2. Elsworth P. Williams, Jr., MD (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 30, 1971, the Medical Board of California issued Physician & Surgeon Certificate No. A 24406 to Elsworth P. Williams, Jr., MD (Respondent).

1 The Certificate was in full force and effect at all times relevant to the charges brought in
2 Accusation No. 23-2003-142527 and will expire on February 28, 2006, unless renewed.

3
4 JURISDICTION

5 4. Accusation No. 23-2003-142527 was filed before the Division of Medical
6 Quality (Division) for the Medical Board of California, Department of Consumer Affairs, and is
7 currently pending against Respondent. The Accusation and all other statutorily required
8 documents were properly served on Respondent on February 3, 2005. Respondent timely filed
9 his Notice of Defense contesting the Accusation. A copy of Accusation No. 23-2003-142527 is
10 attached as exhibit A and incorporated herein by reference.

11
12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, and understands the charges and allegations
14 in Accusation No. 23-2003-142527. Respondent also has carefully read, and understands the
15 effects of this Stipulated Surrender of License and Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
19 the right to present evidence and to testify on his own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

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26 CULPABILITY

27 8. Respondent admits the truth of each and every charge and allegation in
28 Accusation No. 23-2003-142527, agrees that cause exists for discipline and hereby surrenders his

Physician & Surgeon Certificate No. A 24406 for the Division's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Division to issue an order accepting the surrender of his Physician & Surgeon Certificate without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Division of Medical Quality. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the (Division) may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician & Surgeon Certificate No. A 24406, issued to Respondent Elsworth P. Williams, Jr., MD is surrendered and accepted by the Division of Medical Quality.

1 13. The surrender of Respondent's Physician & Surgeon Certificate and the
2 acceptance of the surrendered license by the Division shall constitute the imposition of discipline
3 against Respondent. This stipulation constitutes a record of the discipline and shall become a
4 part of Respondent's license history with the Division.

5 14. Respondent shall lose all rights and privileges as a medical doctor and
6 licensed physician in the state of California as of the effective date of the Division's Decision and
7 Order.

8 15. Respondent shall cause to be delivered to the Division his Certificate/s
9 (wall and pocket license certificate, if applicable) on or before the effective date of the Decision
10 and Order.

11 16. It is agreed to and hereby understood that two (2) years from the effective
12 date of the Decision and Order, Respondent may apply for licensure or petition for reinstatement
13 with the Division. Respondent fully understands and agrees that if he ever files an application
14 for licensure or a petition for reinstatement in the State of California, the Division shall treat it as
15 a petition for reinstatement. Respondent must comply with all the laws, regulations and
16 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
17 of the charges and allegations contained in Accusation No. 23-2003-142527 shall be deemed to
18 be true, correct and admitted by Respondent when the Division determines whether to grant or
19 deny the petition.


20 17. Should Respondent ever apply or reapply for a new license or certification,
21 or petition for reinstatement of a license, by any other health care licensing agency in the State of
22 California, all of the charges and allegations contained in Accusation, No. 23-2003-142527 shall
23 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
24 Issues or any other proceeding seeking to deny or restrict licensure.

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1 ACCEPTANCE

2 I have carefully read the Stipulated Surrender of License and Order. I understand
3 the stipulation and the effect it will have on my Physician & Surgeon Certificate. I enter into this
4 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
5 be bound by the Decision and Order of the Division of Medical Quality, Medical Board of
6 California.

7
8 DATED: August 29, 2005

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10 
11 Elsworth P. Williams, Jr., MD (Respondent)
Respondent

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14 ENDORSEMENT

15 The foregoing Stipulated Surrender of License and Order is hereby respectfully
16 submitted for consideration by the Division of Medical Quality, Medical Board of California of
17 the Department of Consumer Affairs.

18
19 DATED: August 29, 2005

20
21 BILL LOCKYER, Attorney General
of the State of California

22 
23
24 IVAN O. CAMPBELL
Deputy Attorney General

25 Attorneys for Complainant

Exhibit A
Accusation No.

1 BILL LOCKYER, Attorney General
of the State of California
2 PAUL C. AMENT, State Bar No. 60427
Deputy Attorney General
3 For IVAN O. CAMPBELL
Deputy Attorney General
4 California Department of Justice
300 South Spring Street, Suite 1702
5 Los Angeles, California 90013
Telephone: (213) 897-8055
6 Facsimile: (213) 897-9395

7 Attorneys for Complainant

8
9 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13 ELSWORTH PEARL WILLIAMS, JR., M.D.
945 East Holt Avenue, #E
14 Pomona, California 91767
15 Physician and Surgeon's Certificate No. A
24406,
16
17 Respondent.

Case No. 23-2003-142527

A C C U S A T I O N

18 Complainant alleges:

19 PARTIES

20 1. David T. Thornton ("Complainant") brings this Accusation solely in
21 his official capacity as the Executive Director of the Medical Board of California,
22 Department of Consumer Affairs.

23 2. On or about August 30, 1971, the Medical Board of California
24 ("Board") issued Physician and Surgeon's Certificate Number A 24406 to Elsworth Pearl
25 Williams, Jr., M.D. ("Respondent"). The Physician and Surgeon's Certificate was in full
26 force and effect at all times relevant to the charges brought herein and will expire on
27 February 28, 2006, unless renewed.

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therefor, constitutes unprofessional conduct.

“(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

“(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

“(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

“(A) The practitioner had consulted with such registered nurse or licensed vocational nurse who had reviewed the patient's records.

“(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

“(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refilling.

“(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.”

7. Section 2238 of the Code states:

“A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.”

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1 8. Section 331(a) of title 21 of the United States Code prohibits the
2 introduction or delivery for introduction into interstate commerce, or the causing of such
3 introduction or delivery for introduction, of any misbranded drug.

4 9. Section 353(b) of title 21 of the United States Code provides in
5 pertinent part:

6 “(1) A drug intended for use by man which--

7 “(A) because of its toxicity or other potentiality for harmful effect, or the
8 method of its use, or the collateral measures necessary to its use, is not safe for use
9 except under the supervision of a practitioner licensed by law to administer such
10 drug;...

11 “shall be dispensed only (i) upon a written prescription of a practitioner
12 licensed by law to administer such drug, or (ii) upon an oral prescription of such
13 practitioner which is reduced promptly to writing and filed by the pharmacist, or
14 (iii) by refilling any such written or oral prescription if such refilling is authorized
15 by the prescriber either in the original prescription or by oral order which is
16 reduced promptly to writing and filed by the pharmacist. The act of dispensing a
17 drug contrary to the provisions of this paragraph shall be deemed to be an act
18 which results in the drug being misbranded while held for sale.”

19 10. Section 14124.12 of the Welfare and Institutions Code states, in
20 pertinent part:

21 “(a) Upon receipt of written notice from the Medical Board of California,
22 the Osteopathic Medical Board of California, or the Board of Dental Examiners of
23 California, that a licensee's license has been placed on probation as a result of a
24 disciplinary action, the department may not reimburse any Medi-Cal claim for the
25 type of surgical service or invasive procedure that gave rise to the probation,
26 including any dental surgery or invasive procedure, that was performed by the
27 licensee on or after the effective date of probation and until the termination of all
28 probationary terms and conditions or until the probationary period has ended,

1 whichever occurs first. This section shall apply except in any case in which the
2 relevant licensing board determines that compelling circumstances warrant the
3 continued reimbursement during the probationary period of any Medi-Cal claim,
4 including any claim for dental services, as so described. In such a case, the
5 department shall continue to reimburse the licensee for all procedures, except for
6 those invasive or surgical procedures for which the licensee was placed on
7 probation.”

8 11. Section 125.3 of the Code provides, in pertinent part, that the
9 Division may request the administrative law judge to direct a licensee found to have
10 committed a violation or violations of the licensing act to pay a sum not to exceed the
11 reasonable costs of the investigation and enforcement of the case.

12 13 FIRST CAUSE FOR DISCIPLINE

14 (Prescribing Without Prior Examination)

15 12. Respondent is subject to disciplinary action under section 2242 of
16 the Code in that he prescribed, sold, and furnished dangerous drugs specified in section
17 4022 of the Code to Patients Daniel P.,¹ Julie F., Kevin B., Janice H., John R., Kenneth F.,
18 and Samantha W., without a good faith prior examination. The circumstances are as
19 follows.

20 13. At all times relevant to this Cause for Discipline Respondent was
21 not licensed to practice medicine in any State other than the State of California.

22 14. Respondent came into contact with the Patients Daniel P., Julie F.,
23 Kevin B., Janice H., John R., Kenneth F., and Samantha W. (sometimes hereinafter
24 referred to as “the patients”) through an entity called “Medical Services Network”
25 (“MSN”). The patients initially contacted MSN through an Internet site maintained by
26

27 1. The full names of the patients to whom reference is made herein will be disclosed to
28 Respondent upon an appropriate request for discovery.

MSN. Thereafter, MSN referred these patients to Respondent. MSN charged the patients approximately \$100 for each telephonic consultation with Respondent. Respondent received compensation from MSN for his telephonic consultations with the patients.

15. Each of the patients was a resident of a State other than California. Respondent had no face-to-face contact with any of the patients. Rather, all consultations with Respondent were accomplished via telephone communication between the patients and Respondent. Respondent provided each of the patients with multiple prescriptions for dangerous drugs within the meaning of Section 4022 of the Code without having first examined any of the patients, as set forth in the table in paragraph 16 below. In each instance, the prescription was filled and the medication was shipped to the patient by one of three California pharmacies, namely, Glesener Pharmacy in Covina, California; Absolute Care Pharmacy in Van Nuys, California; or Mariner's Pharmacy in Newport Beach, California.

16. The table below sets forth, as to each patient, the patient's state of residence, the drug prescribed by Respondent to the patient, the number of refills allowed by the prescription, and the approximate date of the prescription.

<u>Patient</u>	<u>State</u>	<u>Drug</u>	<u>Refills</u>	<u>Date</u>
Daniel P.	Pennsylvania	Tylenol #4	2	December 1, 2000
Daniel P.	Pennsylvania	Tylenol #4	2	April 11, 2001
Daniel P.	Pennsylvania	Tylenol #4	2	June 15, 2001
Julie F.	Idaho	hydrocodone 10/500	2	May 10, 2001
Julie F.	Idaho	Soma	2	August 10, 2001
Julie F.	Idaho	hydrocodone 10/500	2	August 10, 2001
Julie F.	Idaho	Soma	2	December 3, 2001
Julie F.	Idaho	hydrocodone 10/500	2	December 3, 2001
Kevin B.	Indiana	hydrocodone 10/650	2	August 6, 2001
Kevin B.	Indiana	Valium	2	August 6, 2001
Kevin B.	Indiana	hydrocodone 10/650	2	October 10, 2001
Kevin B.	Indiana	Valium	2	October 10, 2001

<u>Patient</u>	<u>State</u>	<u>Drug</u>	<u>Refills</u>	<u>Date</u>
Kevin B.	Indiana	hydrocodone 10/650	2	January 3, 2002
Kevin B.	Indiana	Valium	2	January 3, 2002
Kevin B.	Indiana	hydrocodone 10/650	2	March 15, 2002
Kevin B.	Indiana	Valium	2	March 15, 2002
Janice H.	New Jersey	Vicodin ES	2	February 7, 2001
Janice H.	New Jersey	Soma	2	May 30, 2001
Janice H.	New Jersey	Vicodin ES	2	May 30, 2001
Janice H.	New Jersey	Vicodin ES	2	September 11, 2001
John R.	Arkansas	hydrocodone 10/325	2	December 26, 2000
John R.	Arkansas	hydrocodone 10/325	2	April 16, 2001
John R.	Arkansas	Adipex	2	November 7, 2001
John R.	Arkansas	hydrocodone 10/325	2	November 7, 2001
Kenneth F.	Texas	hydrocodone 7.5/500	2	May 23, 2001
Kenneth F.	Texas	Lorcet 10/650	2	September 26, 2001
Samantha W.	Mississippi	Vicoprofen	2	June 11, 2001
Samantha W.	Mississippi	Klonopin	2	September 19, 2001
Samantha W.	Mississippi	Vicoprofen	—	December 17, 2001
Samantha W.	Mississippi	Klonopin	—	December 17, 2001

17. Each of the drugs listed in paragraph 16 above is a dangerous drug within the meaning of Section 4022 of the Code, and was dispensed by a pharmacy in California to the patient as listed in paragraph 16 above.

SECOND CAUSE FOR DISCIPLINE

(Violation of Federal Drug Statute)

18. Respondent is subject to disciplinary action under section 2238 of the Code in that he violated federal statutes regulating dangerous drugs or controlled substances. The federal statutes violated by Respondent are sections 331(a) and 353(b) of title 21 of the United States Code, which sections are part of the Federal Food, Drug, and

1 Cosmetic Act. Sections 331(a) and 353(b) prohibit the introduction or delivery for
2 introduction into interstate commerce, or the causing of such introduction or delivery for
3 introduction, of any misbranded drug. The circumstances of the violations are as follows.

4 19. The facts alleged in paragraphs 13-17 above are re-alleged at this
5 point.

6 20. Each of the drugs listed in paragraph 16 above is subject to the
7 prescription requirements of section 353(b) of title 21 of the United States Code.

8 21. The Physician and Surgeon's Certificate issued by the Board did
9 not authorize Respondent to administer dangerous drugs to the patients listed in paragraph
10 16 above, all of whom resided outside the State of California and none of whom
11 Respondent had examined, either within the State of California or outside the State of
12 California. Moreover, Respondent did not at any time relevant to the Causes for
13 Discipline alleged herein possess a license from any other State authorizing him to
14 administer any of the drugs listed in paragraph 16 above to the patients. Accordingly,
15 pursuant to section 353(b) of title 21 of the United States Code, each act of dispensing of
16 the drugs listed in paragraph 16 above is deemed to be an act which resulted in the drug
17 being misbranded while held for sale.

18 22. Each of the drugs listed in paragraph 16 above was, pursuant to
19 Respondent's prescription, dispensed by a pharmacy in the State of California through
20 interstate commerce to the patients as listed in paragraph 16 above.

21 23. Respondent's conduct as set forth in paragraphs 13-17 above
22 constituted the introduction or delivery for introduction, or the causing of such
23 introduction or delivery for introduction, into interstate commerce, of misbranded drugs, in
24 violation of section 353(b) of title 21 of the United States Code.

25
26 THIRD CAUSE FOR DISCIPLINE

27 (Prescribing to an Addict—Patient Samantha W.)

28 24. Respondent is subject to disciplinary action under section 2241 of

1 the Code in that he prescribed a drug or compound mentioned in section 2239 of the Code,
2 to wit, Vicoprofen, to Patient Samantha W., who was, at the time of the prescriptions, an
3 addict to narcotic analgesics. The circumstances are as follows.

4 25. The facts alleged in paragraphs 13-16 above are re-alleged at this
5 point.

6 26. Vicoprofen (hydrocodone bitartrate and ibuprofen tablets) is a
7 narcotic analgesic, and a Schedule III controlled substance. Vicoprofen is a dangerous
8 drug within the meaning of section 4022 of the Code.

9 27. As of June 11, 2001, Samantha W. was addicted to narcotic
10 analgesics.

11 12 DISCIPLINE CONSIDERATIONS

13 28. To determine the degree of discipline, if any, to be imposed on
14 Respondent, Complainant alleges that on or about September 22, 1993, in a prior
15 disciplinary action entitled In the Matter of the Accusation Against Elsworth P. Williams,
16 M.D. before the Medical Board of California, in Case Number D-5015, Respondent's
17 license was placed on probation for five years, with forty-five days of actual suspension,
18 for unprofessional conduct within the meaning of sections 726 and 2234, subdivision (a)
19 of the Code (sexual misconduct in the treatment of two patients); and for incompetence
20 withing the meaning of section 2234, subdivision (d), of the Code (incompetently
21 performed breast examination). That decision is now final and is incorporated by reference
22 as if fully set forth. Respondent successfully completed probation, and his physician and
23 surgeon's certificate was fully restored to clear status and free of probation requirements
24 effective September 22, 1998.

25 26 PRAYER

27 WHEREFORE, Complainant requests that a hearing be held on the matters
28 herein alleged, and that following the hearing, the Division of Medical Quality issue a

1 decision:

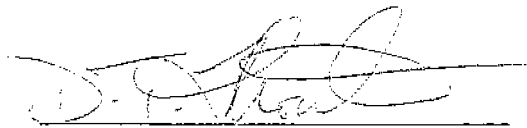
2 1. Revoking or suspending Physician and Surgeon's Certificate
3 Number A 24406, issued to Elsworth Pearl Williams, Jr., M.D.;

4 2. Revoking, suspending or denying approval of Elsworth Pearl
5 Williams, Jr., M.D.'s authority to supervise physician's assistants, pursuant to section 3527
6 of the Code;

7 3. Ordering Elsworth Pearl Williams, Jr., M.D. to pay the Division of
8 Medical Quality the reasonable costs of the investigation and enforcement of this case,
9 and, if placed on probation, the costs of probation monitoring;

10 4. Taking such other and further action as deemed necessary and
11 proper.

12 DATED: January 27, 2005

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15 DAVID T. THORNTON
16 Executive Director
17 Medical Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant
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